

**TO THE READER:**

**SEVERAL PAGES OF THE FOLLOWING MATERIAL  
MAY BE ILLEGIBLE BECAUSE OF THE POOR  
QUALITY OF THE COPY SUBMITTED FOR  
MICROFILMING**

**AUDIT REPORT  
TO  
THE CONGRESS OF THE UNITED STATES**

**ADMINISTRATION OF INDIAN LANDS  
BY  
BUREAU OF INDIAN AFFAIRS  
DEPARTMENT OF THE INTERIOR**

**JANUARY 1956**

**BY  
THE COMPTROLLER GENERAL OF THE UNITED STATES**



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON 25

B-114868

NOV 26 1956

Honorable Sam Rayburn  
Speaker of the House of Representatives

Dear Mr. Speaker:

Herewith is a copy of our report on the audit of the administration of Indian lands by the Bureau of Indian Affairs, Department of the Interior, as of January 1956. This audit was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67). The examination was performed at selected locations under the jurisdiction of the nine area offices of the Bureau in the continental United States and at the Washington office.

The solution of the problems encountered by the Bureau in the administration of Indian lands is basic to the objective of an orderly withdrawal of Bureau supervision over Indian affairs. We believe that the solution of some of the problems pointed out in this report, such as difficulties encountered in the administration of lands in heirship status and reluctance of competent Indians to voluntarily terminate the trust status of their lands, may require legislative action.

A copy of this report is being sent today to the President of the Senate.

Sincerely yours,

Comptroller General  
of the United States

Enclosure

Contents

	<u>Page</u>
PRINCIPAL FINDINGS AND RECOMMENDATIONS	1
GENERAL COMMENTS ON ADMINISTRATION OF INDIAN LANDS	7
DETAILED COMMENTS ON ADMINISTRATION OF INDIAN LANDS	11
Bureau supervision over allotted Indian lands	11
complicated by heirship problems	11
Sale of allotted lands in heirship status	14
Land in heirship status held under trust patent	15
Land in heirship status held under restricted fee patent	17
Leasing of lands in heirship status	18
Probate of estates	19
Recommendation	20
Reluctance of competent Indians to voluntarily terminate the trust status of their lands	21
Recommendation	28
Submarginal lands	29
Rental and use of submarginal lands	30
Submarginal lands rented by the Bureau at nominal rates	30
Disposition of revenues from submarginal land	32
Recommendation	33
Proposed transfer of submarginal lands to Indian tribes	33
Fees for services rendered by the Bureau	35
Recommendation	36
Need for revision of probate fees	36
Recommendation	39
Backlog on land transactions	40
Maintenance of duplicate land records	42
Failure to prescribe land record procedures	44
Processing of patent-in-fee applications	45
Recommendation	46
<u>Appendix</u>	
APPENDIXES	
Schedule of heirship interests in an allotment, Crow Creek Reservation, Aberdeen Area	A 49
Memorandum to Aberdeen Area Director from Superintendent of Winnebago Agency, regarding heirship problems	B 51
Backlog of land transactions reported by Bureau field locations as of June 30, 1954 and 1955	C 53

REPORT ON AUDIT  
OF  
ADMINISTRATION OF INDIAN LANDS  
BY  
BUREAU OF INDIAN AFFAIRS  
DEPARTMENT OF THE INTERIOR  
JANUARY 1956

In connection with the audit of the BUREAU OF INDIAN AFFAIRS, Department of the Interior, the General Accounting Office has reviewed the administration of Indian lands. This audit was made pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

The examination related primarily to operations conducted in fiscal year 1955 and was performed at selected locations under the jurisdiction of the nine area offices of the Bureau in the continental United States and at the Washington Office.

PRINCIPAL FINDINGS AND RECOMMENDATIONS

Following is a brief discussion of the principal audit findings and our recommendations thereon.

1. Bureau supervision over allotted Indian lands complicated by heirship problems

Departmental regulations (25 C.F.R. 241.18) provide that a petition to sell inherited Indian lands "shall be signed by all adult heirs on their own behalf, by the guardian of a minor heir who has such guardian, and by the superintendent or other officer in charge of the agency or school on behalf of any orphan minor

heir." According to Bureau officials, the Department and the Bureau have interpreted the various statutes placing on them a trust responsibility for the Indian and his property, including statutes authorizing sales and partitions, as not authorizing the sale or partition of Indian trust or restricted lands in heirship status without the consent of all competent<sup>1</sup> owners, except when one or more of the heirs is considered by the Secretary of the Interior to be incompetent. Consequently, in view of the continuous subdivision of Indian allotments due to deaths of the allottees and transfer of the undivided interests in the land to heirs and devisees, the responsibilities of the Bureau in connection with the management and disposal of Indian trust property have become seriously complicated. The complexities of the problems associated with such lands tend to increase with time. Moreover, the withdrawal of Federal supervision over Indian lands is hindered by these fractionated interests.

To aid in eliminating some of the obstacles hindering the withdrawal of Federal supervision over the Indians, we are recommending that Congress consider legislation authorizing the Secretary of the Interior to sell or partition inherited lands held

---

<sup>1</sup>A competent Indian is considered by the Bureau to be one capable of managing his own affairs, including his property. An Indian does not have to be non compos mentis or have other legal disability to be considered incompetent by the Bureau.

under trust patent,<sup>1</sup> without requiring the consent of all competent owners and without limiting that authority, as at the present time, to cases where one or more of the heirs is determined to be incompetent. We are recommending also that the Congress consider legislation authorizing the Secretary of the Interior to revoke restricted fee patents and issue in lieu thereof trust patents for lands in heirship status, without requiring the consent of the heirs and devisees, when the Secretary of the Interior has determined that proposed sales or partitions are prevented because of the restricted fee patent status of the land. A further discussion of this matter appears on pages 11 to 20.

2. Reluctance of competent Indians to voluntarily terminate the trust status of their lands

The audit disclosed that competent Indians are reluctant to voluntarily terminate the trust status of their lands because of the personal advantages accruing from the trust status to such Indians, such as exemption from real estate taxes on trust land, and the services rendered by the Bureau in connection with the management of Indian trust property either without charge or with relatively low fees.

To facilitate the withdrawal of Bureau supervision over lands of competent Indians, we are recommending that the Congress consider legislation which would--without prejudicing any existing

---

<sup>1</sup>The trust patent is evidence that the land is held in trust by the United States for the beneficial use of the Indian, usually for a definite period of time. The Indian cannot alienate or encumber this land without the consent of the Secretary of the Interior.

exemption from taxation constituting a vested property right-- authorize the Secretary of the Interior to issue patents-in-fee,<sup>1</sup> certificates of competency, or orders removing restrictions, whichever is appropriate, to all Indians holding restricted lands who have been determined by the Secretary to be competent, without requiring the application or authorization of the Indian. Similar authority has been granted to the Secretary of the Interior by the act of August 11, 1955 (69 Stat. 666), in connection with removal of restrictions on lands of Indians of the Five Civilized Tribes. Additional comments on reluctance of competent Indians to voluntarily terminate the trust status of their lands appear on pages 21 to 23.

3. Submarginal lands

The audit disclosed that Government-owned lands, generally referred to as submarginal lands, transferred by the Secretary of Agriculture to the Secretary of the Interior by Executive order, are rented by the Bureau under revocable permit to Indian tribes at nominal rates and that a considerable percentage of these lands are in turn permitted by the tribes to Indians and non-Indians at higher rental rates. In September 1956 there were about 346,000 acres of such lands under the jurisdiction of the Bureau.

To provide a fair return to the Government on submarginal lands rented to tribes by the Bureau, we are recommending that the

---

<sup>1</sup>The patent-in-fee conveys fee simple title to the patentee and thereby terminates Federal supervision over the land.

Commissioner take further action to increase the rental rates. The subject of submarginal lands is discussed further on pages 29 to 33.

#### 4. Fees for services rendered by the Bureau

The fees charged for services rendered by the Bureau in connection with the management of Indian trust property are usually relatively low, and, for some of the services performed for Indians by the Bureau's Branch of Realty, fees are not prescribed. To reduce the cost to the Government of administering land transactions, we are recommending that the Commissioner take the necessary action to establish, as soon as possible, a fee structure based upon the objective of covering the cost of furnishing these services.

One of the fee schedules in need of revision requires congressional action. It involves the fees assessed by the Bureau for the probate of estates containing individual Indian land interests. These fees are established by the act of January 24, 1923 (25 U.S.C. 377). Accordingly, we are recommending that the Congress consider legislation designed to increase the income from probate fees to provide in the aggregate for the recovery of costs to the Government of processing probate cases. A further discussion of this matter appears on pages 35 to 39.

#### 5. Backlog on land transactions

The Bureau reported that it closed about 24,000 land transaction cases during fiscal year 1955 and that a backlog of 13,095 cases existed at June 30, 1955. During fiscal year 1956, considerable progress has been made by the Bureau in reducing this backlog. Our review of land transaction procedures disclosed, however,

certain deficiencies which contribute to the backlog. These deficiencies include the maintenance of duplicate land records, the failure to prescribe procedures for maintenance of land records at agency offices, and the unnecessary processing of patent-in-fee cases.

To reduce the backlog of land transactions and to reduce the cost of and delay in processing land transactions, we are recommending that (1) the Commissioner take appropriate action to eliminate the duplicate land records maintained by the field and Washington and to have rules and regulations prescribed in the Indian Affairs Manual on the land records to be maintained at the field offices and (2) the Commission consider having regulations on the processing of patents-in-fee revised to permit Area Directors to issue such patents so that all patent-in-fee cases do not have to be processed in Washington. Additional comments on these deficiencies appear on pages 40 to 47.

GENERAL COMMENTS ON ADMINISTRATION OF INDIAN LANDS

One of the more significant activities of the Bureau of Indian Affairs is the administration of Indian lands. Bureau records show about 56,000,000 acres of lands under its jurisdiction at June 30, 1955, in the following categories:

Description	Acreage	
	United States	Alaska
Tribal lands	39,486,712	2,887,852
Allotted lands held in trust for individual Indians	13,662,071	7,227
Federally owned land (note a)	622,016	19,277
Total	<u>53,770,799</u>	<u>2,914,356</u>

<sup>a</sup>Excludes public domain lands permitted to Indians but located outside reservation boundaries.

Allotted lands are those which, pursuant to specific treaty or general statute, were granted to individual Indians but are held in trust by the Government. Tribal or unallotted lands are held in trust by the Government for Indian tribes. Practically all Indian land held in trust has two distinguishing characteristics. First, it may not be conveyed by the Indians without the consent of Congress if it is tribal land or without the consent of the Secretary of the Interior or his authorized representative if it is individually owned. Second, it is generally exempt from state and local taxation.

More than 3,000 laws relate directly or indirectly to Indian lands. These laws govern the manner in which lands may be conveyed and provide the means whereby restrictions may be removed. The laws also place upon the Secretary of the Interior a trusteeship responsibility for protection of the titles to the land, the

leasing of the land, the sale of minerals, timber, and other products, and the granting of rights-of-way during the time the lands are held in a trust status.

Over the years, the Government's Indian policy has changed from segregation to allotment and disposal, to retention of lands, and, finally, back to disposal. The early part of the 19th century found the Indians segregated on reservations according to treaties between the Government and the tribes. The policy of allotment, designed to assimilate the Indians into white society, contemplated that each individual Indian be given a tract of reservation land. This policy prevailed from 1887 with the passage of the Dawes Act (25 U.S.C. 331-332) until the passage of the Indian Reorganization Act in 1934 (25 U.S.C. 461) which was also known as the Wheeler-Howard Act. The features of this act were designed to make permanent the Federal guardianship of the special Federal services to Indians as well as reasserting guardianship for those Indians made landless as a result of the allotment policy.

Except for the act of June 26, 1936 (25 U.S.C. 501-510), which extended certain sections of the Indian Reorganization Act to the Indians of Oklahoma, no major legislation affecting Indian landholdings was passed until May 14, 1948 (62 Stat. 236). This act, quoted in full, states as follows:

"That the Secretary of the Interior, or his duly authorized representative, is hereby authorized in his discretion, and upon application of the Indian owners, to issue patents in fee, to remove restrictions against alienation, and to approve conveyances with respect to lands or interests in lands held by individual Indians under the provisions of the Act of June 18, 1934 (48 Stat. 984), or the Act of June 26, 1936 (49 Stat. 1967)."

On August 1, 1953, the policy of Congress regarding the Indians was declared in House concurrent resolution 108, Eighty-third Congress, first session, as follows:

"\*\*\* to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as wards of the United States, and to grant them all the rights and prerogatives pertaining to American citizenship; and \*\*\* the Indians within the territorial limits of the United States should assume their full responsibilities as American citizens \*\*\*."

Because the assumption by Indians of the full privileges and responsibilities of other citizens of the United States is largely dependent upon the termination of Federal trusteeship over Indian property, the solution to the land problem is basic to the objectives of an orderly withdrawal of Bureau supervision over Indian affairs.

Our review of the Bureau's administration of Indian lands was concerned primarily with the activities carried out by the Branch of Realty. These activities include:

1. Supervision of the termination of trusteeship over individually owned Indian land by (1) approving applications for patents-in-fee, (2) issuing orders removing restrictions and certificates of competency, and (3) assisting the Indian owners in the sale of their lands.

2. The acquisition of lands for Indian use through purchase or exchange.

3. Supervision over the sale of minerals, the leasing of land, and the granting of rights-of-way during the time the lands are held in trust status.

At June 30, 1955, the Branch of Realty had about 150 employees. Funds allotted for Branch of Realty activities in fiscal year 1955 totaled \$792,228. In addition, tribal funds under the supervision of the Bureau totaling about \$83,725 were provided in fiscal year 1955 for realty activities.

DETAILED COMMENTS ON ADMINISTRATION OF INDIAN LANDS

BUREAU SUPERVISION OVER ALLOTTED INDIAN LANDS  
COMPLICATED BY HEIRSHIP PROBLEMS

Departmental regulations (25 C.F.R. 241.18) provide that a petition to sell inherited Indian lands "shall be signed by all the adult heirs on their own behalf, by the guardian of a minor heir who has such guardian, and by the superintendent or other officer in charge of the agency or school on behalf of any orphan minor heir." According to Bureau officials, the Department and the Bureau have interpreted the various statutes placing on them a trust responsibility for the Indian and his property, including statutes authorizing sales and partitions, as not authorizing sale or partition of Indian trust or restricted lands in heirship status without the consent of all competent owners, except when one or more of the heirs is considered by the Secretary of the Interior to be incompetent. Consequently, in view of the continuous subdivision of Indian allotments due to deaths of the allottees and transfer of the undivided interests in the land to heirs and devisees, the responsibilities of the Bureau in connection with the management and disposal of Indian trust property have become seriously complicated.

Although there appears to be no clear authority in Federal statutes for the sale or partition of undivided interests in Indian land without consent of the competent owners, the right of any owner of an undivided interest in land to force a partition or sale of land not under Federal jurisdiction is well settled by the courts. In this connection, section 27 of the title, Partition,

volume 40 of American Jurisprudence, states that "whenever persons interested in land as owners and cotenants cannot, by consent and agreement among themselves, make a division thereof, that is, have a voluntary partition, any one or more of them may apply for a partition by judicial proceedings - a compulsory partition, - which takes place without regard to the wishes of one or more of the owners." Section 83 of the same title states that "the manifest hardship arising from the division of property of an impartable nature has been almost universally avoided by statutory provisions which give to a person entitled to partition the right to have the premises sold, if they are so situated that partition cannot be made.\*\*\*"

The most recent data available show that at June 30, 1954, the lands held in trust for individual Indians totaled 13,662,071 acres and consisted of 103,774 allotments. Only about one half of these allotments were held by single owners whereas 28,576 allotments were held by from two to five owners and 20,480 were held by six or more owners. It is not uncommon to find 20 or 30 heirs owning interest in a single tract or to find one person having interest in a dozen tracts scattered over the reservations. All allotted lands will fall eventually into heirship status unless the land is removed from trust status before the death of the allottee.

The Government's policy of extensive allotment of land to individual Indians prevailed from 1887 until 1934, and a majority of the original allottees are deceased and ownership of these lands has descended, with attendant subdivision, to the heirs or devisees. The heirship status of allotted lands is changing constantly

because of the death of allottees and their heirs. This change is illustrated by allotments held by Indians at the Winnebago Agency of the Aberdeen, South Dakota, Area. Of the 866 allotments outstanding at June 30, 1952, only 22 were still held by the original allottees. On March 1, 1954, there were 66 heirs to 1 Winnebago allotment while on March 1, 1955, the heirs to this allotment had increased to 90, an increase of 24 heirs in 1 year.

At the Billings Area, examples of allotments showing large numbers of heirs are as follows:

Allotment number	Acres	Number of heirs	Date of heirship determination
271	263	51	January 1954
2499	160	73	February 1955
2594	160	78	June 1955
56	116	99	(See appendix A)

The Real Property Officer of the Billings Area estimated that about 60 percent of the 4,223,893 acres of allotted Indian trust lands in the area at June 30, 1955, have passed into heirship status.

Some of the factors that tend to complicate the heirship problems of Indians are as follows:

1. Indian heirs do not ordinarily have the cash or credit facilities to settle estates when physical partition of the land is not practicable.
2. The responsibility as well as the major part of the cost of administration of Indian estates is borne by the Federal Government. No economic incentive exists for the Indians to simplify the status of heirship lands.
3. Indian family relations are generally more complicated than those of non-Indians. Indian marriage and divorce procedures may follow tribal custom rather than state law. The act of August 15, 1953 (25 U.S.C. 1162), however, made Indians in certain states liable to the laws which apply to other citizens.

The complications which prevent the sale of fractionated interests in lands also prevent Indians from purchasing Indian-owned tracts for the purpose of consolidating their holdings into economic units for farming, grazing, or other purposes.

Moreover, the maintenance of accurate land records is becoming increasingly difficult and costly as the number of heirs increases because of the work involved in recording transactions involving many owners. The problems of distributing income from lands in heirship status to the individual Indian money accounts are discussed on pages 25 and 26 of the audit report issued to the Congress on October 1, 1956, on the administration of individual Indian moneys by the Bureau of Indian Affairs. Discussion on the maintenance of land records appears on pages 42 to 45.

#### Sale of allotted lands in heirship status

Allotted trust lands are held by individual Indians under trust patents or restricted fee patents. The principal difference between these two types of patents lies in the method by which title to the land may be conveyed to a purchaser. Original allottee owners of trust patent lands must sign a deed to convey title. The act of June 25, 1910 (25 U.S.C. 372), provides, however, that trust patent land in heirship status may be advertised and sold at the direction of the Secretary of the Interior, provided one or more of the heirs is considered by him to be incompetent, except in the case of Five Civilized Tribes or Osage lands. Under this provision, it is Bureau policy to obtain the consent of a sufficient number of competent heirs of legal age to represent a majority interest in the land. Due consideration is given to valid

objections by any heir. The instrument of conveyance for trust patent lands is a patent-in-fee or a deed signed by the owners. Title to lands held under a restricted fee patent, on the other hand, may be conveyed to a purchaser only if all adult owners and guardians of minors sign the deed. The deed is the instrument of conveyance for such titles.

Land in heirship status held under trust patent

During the audit we noted several cases of petitions for sale of allotted land in heirship status held under trust patent where difficulty was encountered in consummating the sale because heirs holding a minority interest in the land had not given written consent to the sale. The Indian Affairs Manual (54 IAM 202.03A(4)) provides:

"Applications for the sale of inherited land may be executed by any heir holding an interest in the land. However, if the heirs are of legal age and competent, all heirs must sign a consent to sale. If one or more of the heirs has not reached legal age or if one or more of the heirs has been determined incompetent, the land may be sold without consent and fee patent issued."

In the Aberdeen Area, for example, heirs of Winnebago allottee L-354 requested the sale of the allotment; and, in March 1954, after nearly 3 years of attempting to obtain the written consent to sell, of all heirs, only 78 percent of the petitions for sale had been obtained by the Bureau. (See appendix B.) The heirs of one decedent, a non-Indian who owned a 7/2016 interest in this estate, will probably never be determined. He left no children and his relatives seem to be uninterested in the small interest involved. Unless the Bureau determines that some of the heirs are incompetent, this sale will be delayed or prevented until all

heirs are determined and located and the consent to sell is obtained.

At the Pottawatomie field office of the Anadarko Area an application for sale of land was denied because one of the minority owners had refused to sell. One Indian initiating the request for sale holds a one-half interest in 120 acres appraised at \$5,600. He had requested the sale because he was 82 years of age and desired his share of the proceeds from the sale during his lifetime. The application for sale was denied because one of the eight individuals having a 1/24 interest in the land refused to consent to the sale. All the other owners had given their consent.

We noted several cases of petitions for sale of land in heirship status under the jurisdiction of the Sacramento Area Office where one heir refused to sell. The heir refusing to sell may have a minority interest in one or more allotments, and a good deal of time is spent by BIA personnel making visits for the purpose of trying to convince the heir to sell. We were informed that many such cases exist.

Examples of these cases are as follows:

<u>Allotment number</u>	<u>Date of petition</u>	<u>Number of heirs</u>	<u>Ownership share of heir who refuses to sell</u>
RV-944	6-15-55	15	6/72
RV-467	"	15	6/72
RV-846	5-20-55	6	1/4
RV-847	"	6	22/72

These allotments are located at Round Valley Reservation in California.

Land in heirship status  
held under restricted fee patent

The multiple heirship problem also complicates the sale of inherited lands held under restricted fee patent. Although the acreage of restricted fee allotments is not readily available, Bureau officials informed us that only a small percentage of the allotted lands under the Bureau's jurisdiction are in this category. In the States of Minnesota, Wisconsin, and Michigan there are about 1,856 such allotments. Allotments held under restricted fee patents exist also in Kansas, Montana, Nebraska, Oregon, and Washington. These allotments are not covered by the provisions of the act of June 25, 1910 (25 U.S.C. 372), which authorizes the sale of lands in heirship status at the direction of the Secretary of the Interior if one or more of the heirs is considered by him to be incompetent. Consequently, title to this land can be conveyed only by a deed signed by all adult heirs or devisees and by the guardians of minors. Failure of one owner to sign the deed, no matter how small his interest, may prevent a sale requested by those having the majority of interest in the land.

At the Winnebago Indian Reservation located in Nebraska, the status of the land was changed from restricted fee patent to trust patent by the act of March 3, 1925 (43 Stat. 1114), which authorized the Secretary of the Interior to cancel restricted fee patents on this reservation and to issue trust patents in lieu thereof. This legislation made possible the conveyance of title to prospective purchasers by issuance of a patent-in-fee by the Secretary of the Interior. Moreover, trust patent land in heirship status can

be sold under certain conditions at the direction of the Secretary under provisions of the act of June 25, 1910, referred to above, without the consent of all the heirs. Similar legislation has not been enacted for other than Winnebago lands held under restricted fee patent.

Leasing of lands in heirship status

Indian trust lands in heirship status may be leased by the heirs or devisees with the approval of the Superintendent.

These leases require the signatures of all competent heirs except under certain conditions provided in 25 C.F.R. 171.7. The necessity of obtaining the signatures of many owners discourages potential lessees and may deprive Indians of income from the land. Collateral to this is the problem of distributing lease income to the numerous owners of the leased land. Some Indians receive only nominal amounts. For example, at the Crow Agency of the Billings Area, a lease on 40 acres of land earns an annual rental income of \$20 and is distributed among 75 heirs who own an undivided interest in this land. Only 1 of the 75 heirs receives more than \$1 of the annual rental and 66 heirs receive a share of 25 cents or less which is entirely absorbed by the lessor fee charged to cover the cost of handling the collection. It is probable that during the 5-year term of the lease the distribution of the income may have to be recomputed, possibly each year, as a result of deaths among the present heirs which will further reduce the lease income to individual Indians from the land originally allotted.

At the Winnebago Agency, of the Aberdeen Area, an allotment leased during 1954 for \$180 was divided among 66 heirs, some of whom received only 3 cents. In 1955 the proceeds from the lease were distributed among 90 owners.

Probate of estates

Few Indians execute wills devising designated tracts of land to specific heirs. As a result the land is passed to the heirs, each of whom then owns an undivided interest in the land. The determination as to the heirs and their fractional interests is made through probate, conducted by the Examiners of Inheritance under the Office of the Solicitor, Department of the Interior. The complexity of heirship determination is illustrated by the following cases probated in the Gallup Area:

1. One Indian shared in 9 estates through her second husband and also in 2 other estates. The total value of her share of these 11 estates was \$703, with 6 of the estates being valued at less than \$15. Her 9 children and 7 of her grandchildren shared in these estates at her death. Consequently, the interest in the 11 estates was divided into 176 shares ranging in amount from 3 cents to \$30.
2. The estate of allotment No. 144, valued at \$240, had 71 heirs at time of probate. Forty-three heirs received more than a \$1 share in the estate and, of the remaining 28 heirs, 14 received shares valued at less than 10 cents. The fractional shares ranged from  $837/4,515,840$  to  $263,655/4,515,840$ .

Distributions of probate fees to charge each heir with his pro rata share, in the event that the fee was not deducted from the estate, may take considerable time to calculate. In one instance, in the Sacramento Area, 39 heirs were charged a pro rata share of the fee, as follows:

<u>Number of heirs</u>	<u>Pro rata share of fee</u>	<u>Total</u>
2	\$ .02	\$ .04
7	.05	.35
13	.08	1.04
3	.14	.42
1	.20	.20
1	.21	.21
4	.23	.92
1	.25	.25
1	.31	.31
2	.47	.94
3	.94	2.82
<u>1</u>	7.50	<u>7.50</u>
<u>39</u>		<u>\$15.00</u>

The work sheet for this distribution was prepared by 3 employees in 2 man-days. The cost of calculating the distribution was greater than the probate fee.

Recommendation

The withdrawal of Federal supervision over Indian lands is related directly to the reduction of fractionated interests in Indian lands. The complexities of the problems associated with such lands tend to increase with time. To aid in eliminating some of the obstacles hindering the withdrawal of Federal supervision over the Indians, we recommend that:

1. Congress consider legislation to authorize the Secretary of the Interior to sell or partition inherited lands held under trust patent, without requiring the consent of all competent owners and without limiting that authority, as at the present time, to cases where one or more of the heirs is determined to be incompetent.
2. Congress consider legislation to authorize the Secretary of the Interior to revoke restricted fee patents and issue in lieu thereof trust patents for lands in heirship status, without the consent of the heirs and devisees, provided that the Secretary of the Interior has determined that proposed sales or partitions are prevented because of the restricted fee patent status of the land.

RELUCTANCE OF COMPETENT INDIANS TO VOLUNTARILY  
TERMINATE THE TRUST STATUS OF THEIR LANDS

Our audit disclosed that competent Indians are reluctant to voluntarily terminate the trust status of their lands because of the personal advantages accruing from the trust status to such Indians, such as exemption from real estate taxes on trust land, and the services rendered by the Bureau in connection with the management of Indian trust property usually without charge or with relatively low fees.

The act of February 8, 1887, as amended by the act of May 8, 1906 (25 U.S.C. 349), provides that the Secretary of the Interior "may, in his discretion, and he is authorized, whenever he shall be satisfied that any Indian allottee is competent and capable of managing his or her affairs at any time to cause to be issued to such allottee a patent in fee simple." The act of May 29, 1908 (25 U.S.C. 404), provided that the Secretary of the Interior "shall ascertain the legal heirs" of deceased allottees, and "if satisfied of their ability to manage their own affairs shall cause to be issued in their names a patent in fee simple" for their lands.

In a memorandum to the Assistant Secretary of the Interior dated February 15, 1954, the Solicitor of the Department of the Interior stated, as follows:

"It is true that neither the act of May 8, 1906, nor the act of May 29, 1908, in terms requires that an application for a patent in fee must be made by the allottee or heirs of an allottee, but the courts have nevertheless held that a patent in fee may not properly be issued by the Secretary of the Interior under authority of the cited acts without the application or consent

of the allottee. \*\*\* As the issuance of a patent in fee would abrogate the tax exemption, the courts held that a requirement of an application by the allottee must be implied. \*\*\*"

\* \* \* \* \*

To determine the attitude of the Indians regarding the removal of their lands from trust status and from the Bureau's jurisdiction, we conducted surveys at certain of the agency and area offices visited.

At the two agencies visited in the Billings Area, there were 39 Bureau employees of Indian origin who had allotted or other individually owned lands. Only 4 of the 39 had taken patents-in-fee on all of their lands, 5 had taken patents-in-fee on part of their lands or had sold part of their lands, and the remainder held all their lands in trust. Discussions held with some of the Indian employees disclosed that their primary reasons for retaining their lands in trust status stemmed from the financial advantages gained (tax exemption), and that there was little positive incentive for an Indian owner to obtain a patent-in-fee unless he wished to sell the land because of this tax exemption and because the administration of Indian lands and most of the related costs is borne by the Federal Government.

The Superintendent at the Turtle Mountain Consolidated Agency, Aberdeen Area, estimated that not more than 10 percent, or between 800 and 900, of the Indians under agency jurisdiction could be considered competent.

We conducted a survey of the Minneapolis and Aberdeen Areas to determine the number of Bureau employees who still retain land

in a trust status. Questionnaires were sent to the Superintendents of the agencies and the two Area Directors for distribution to the individual employees of Indian blood. A total of 340 employees completed the questionnaire indicating they held land in a trust status. The replies as to why the lands were still in trust status and whether fee patents have been applied for are classified as follows:

<u>Reply</u>	<u>Number of replies</u>
To avoid land taxation	24
Complicated heirship problems	60
Wish to retain land in trust status	113
Holding land for own use	54
Personal reasons	58
Fee patent applied for	1
Fee patent will be applied for	<u>30</u>
Total	<u>340</u>

It will be noted that only 1 employee in these 2 areas has applied for patent-in-fee and that only 30 out of the remaining 339 stated any intention of voluntarily terminating the trust restriction on their lands.

Examples of employees who indicated that they did not intend to apply for fee patents are:

1. Area Director, GS-15, at one of the area offices.
2. Roads Engineer, CPC-9, at one of the agencies.
3. One of the Area Finance Officers, GS-12, who owns a one-half undivided interest in an allotment.

In his reply to the questionnaire, the Area Director stated: "So long as I may legally retain these land holdings in trust and thereby keep down my personal expenses I intend to do so. I consider it a right similar to certain entitlements that I have as a World War II veteran."

The Anadarko Area Director, at our request, submitted a questionnaire to area personnel of Indian blood to ascertain why they did not request removal of restrictions if they owned an interest in trust lands. We received replies from 258 employees. Of these, 169 did not own any trust land and 14 did not furnish any information. The remaining 75 replies, indicating ownership, are summarized as follows:

Application for removal of restrictions filed	3	4%
To keep land from being taxed by the state	5	7
Not interested in having restrictions removed	30	40
Heirship interest (note a)	22	29
No reason given for not requesting the removal of restrictions	<u>15</u>	<u>20</u>
Total	<u>75</u>	<u>100%</u>

<sup>a</sup> Heirship interest being given to indicate that, regardless of how the employee felt, this fact prevented the restrictions from being removed.

It will be noted that 47 percent were not interested in having the restrictions removed. Examples of the reasons given in answer to the request as to why fee patents or the removal of restrictions were not requested follow.

Engineering Aid, GS-4

"It was not costing me anything to keep it as it is and too, understand that fee patents are hard to get."

Administrative Assistant, GS-7

"As a matter of principle."

Clerk-Stenographer, GS-3

"I do not feel it is to my advantage to do so."  
"Not to my advantage to have restrictions removed."

Machine Operator

"To keep from being taxable"

Clerk, GS-4

"I prefer to keep my land in a restricted status."

Teacher-Advisor, GS-7

"The land has little value and removal of restrictions would have no effect in one way or the other."

Laundry Manager, CPC-6

"My reason is I want to leave it under restrictions as long as I can."

Department Head (Guidance), GS-9

"Not interested in selling"

Teacher (Home Economics), GS-7

"There has been no occasion to use it."

Laborer

"To keep from being taxable"

No evidence was indicated, regarding the 49 percent having heirship interests and those giving no reason as to whether they desired the removal of restriction, to lead to a conclusion that they would request such action.

The Muskogee Area Director, at our request, circularized area personnel of Indian blood to ascertain why they did not request removal of restrictions if they owned an interest in trust lands. We received replies from 196 employees. Of these, 162 did not own any trust land. The remaining 34 replies, indicating ownership, are summarized as follows:

Application for removal of restrictions filed	2	6%
Removal of restrictions prohibited by tribal policy until recently	1	3
Heirship interest (note a)	9	26
Not interested in having restrictions removed (includes those who like BIA supervision and desire to keep land from being taxed)	12	35
No reason given	10	30
Total	34	100%

<sup>a</sup>Heirship interest being given to indicate that, regardless of how the employees felt, this fact prevented the restrictions from being removed.

It will be noted that 35 percent were not interested in having the restrictions removed. Examples of the reasons given in answer to the request as to why fee patents or removal of restrictions had not been requested follow.

Engineering Aid, GS-5

"Only reason that Indian Service would remove restrictions was for land sale, and I do not want to sell."

Soil Conservationist, GS-7

"I have not applied for removal of restrictions or fee patent because the above request is made only for the purpose of selling the land and I have never had the desire nor need of selling my land."

Home Extension Aid, GS-5

"There has been no especial need to change the status of land holdings."

Teacher-Advisor, GS-7

"It gives me a feeling of security to know I can secure advice and that my interests will be protected if needed."

Law Clerk, GS-5

"Not necessary - keep from paying taxes."

Soil Conservationist, GS-7

"Because of the protection of departmental lease contracts and because of its non-taxable status."

There were no indications that the 26 percent having heirship interests and the 30 percent who gave no reason would request that restrictions be removed.

The policy of the Congress, as declared in House concurrent resolution 108, Eighty-third Congress, is that Indians within the territorial limits of the United States should assume their full responsibilities as American citizens as rapidly as possible.

(See p. 9.) It is probable that Indian employees of the Bureau who show no desire to have their lands removed from trust status are not likely to encourage other Indians with whom they come in contact, by reason of Bureau employment, to request patents-in-fee, certificates of competency, or orders removing restrictions.

The act of August 11, 1955 (69 Stat. 666), authorizes and directs the Secretary to issue, without application, an order removing restrictions to any Indian of the Five Civilized Tribes who, in the judgment of the Secretary, is able to manage his or her own affairs. There is no general legislative authority, however, to permit the Secretary to convey to competent Indians clear title to their lands without application by the Indian. The absence of this authority has complicated the withdrawal of Bureau supervision over Indian lands.

Recommendation

To facilitate the withdrawal of Bureau supervision over lands of competent Indians, we recommend that the Congress consider legislation which would--without prejudicing any existing exemption from taxation constituting a vested property right--authorize the Secretary of the Interior to issue patents-in-fee, certificates of competency, or orders removing restrictions, whichever is appropriate, to all Indians holding restricted lands who have been determined by the Secretary to be competent, without requiring the application or authorization of the Indian, where such authority is not granted under existing legislation.

The Department has informed us that it believes that the great majority of the Indians owning trust or restricted land would oppose the implementation of this recommendation.

## SUBMARGINAL LANDS

Under provisions of Executive Orders No. 7792 and No. 7868 dated January 18 and April 15, 1938, respectively, and supplemental orders issued subsequent thereto, jurisdiction over about 828,000 acres of Government-owned lands, usually referred to as submarginal lands, has been transferred by the Secretary of Agriculture to the Secretary of the Interior. This transfer included about 455,000 acres in the State of New Mexico. The act of August 13, 1949 (25 U.S.C. 621), provided that title to the portion of these lands used by the Pueblo and Canoncito Navajo Indians was in the United States of America in trust for the tribes, bands, or groups of Indians occupying and using same and declared that the remainder of these New Mexico lands were a part of the public domain to be transferred to the Bureau of Land Management. Also, the act of July 20, 1956 (70 Stat. 581), provided for the conveyance of about 27,000 acres of submarginal lands to the Seminole Tribe in the State of Florida to be held by the United States in trust for the Tribe. Consequently, there remain about 346,000 acres of Government-owned submarginal lands which are to be administered by the Commissioner of Indian Affairs for the benefit of such Indians as he may designate. The lands were purchased by the Farm Security Administration of the Department of Agriculture under provisions of various laws.<sup>1</sup>

<sup>1</sup>National Industrial Recovery Act of June 16, 1933, title II (48 Stat. 200); Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115); act of August 24, 1935, title I, section 55 (49 Stat. 750, 781); Bankhead-Jones Farm Tenant Act of July 22, 1937, as amended, title III (7 U.S.C. 1010, 1011).

## Rental and use of submarginal lands

Our audit on the administration of Government-owned submarginal lands was carried out on lands under the jurisdiction of the Bureau of Indian Affairs Aberdeen Area Office which has about 36 percent of these lands under its jurisdiction. The audit disclosed that these lands are rented by the Bureau to Indian tribes at nominal rates, that a considerable percentage of these lands are in turn permitted by the tribes to Indians and non-Indians at higher rental rates, and that the Bureau had not been depositing the rental income accruing to the Government on these lands into the Treasury as miscellaneous receipts.

### Submarginal lands rented by the Bureau at nominal rates

The Bureau rents the submarginal lands in the Aberdeen Area, under revocable permits, to various tribes at nominal rates of 1 or 2 cents an acre. The tribes have in turn permitted these lands to individual Indians and non-Indians usually at much higher rates. The annual rental fees paid by the tribes under 10-year permits are as follows:

<u>Aberdeen Area name of agency</u>	<u>Permit period</u>	<u>Number of acres</u>	<u>Annual rental fee</u>
Cheyenne River Pierre:	12-1-47 to 11-30-57	5,111	\$ 51
Crow Creek Reservation	1-1-50 to 12-31-59	20,474	409
Lower Brule Reservation	4-1-48 to 3-31-58	14,273	285
Pine Ridge	11-1-47 to 10-31-57	46,522	930
Rosebud	4-5-44 to 4-5-54	28,730	358
Standing Rock	4-1-48 to 3-31-58	10,965	109
Turtle Mountain Consolidated: Fort Totten Reservation	1-1-48 to 12-31-57	<u>1,424</u>	<u>14</u>
Total		<u>127,499</u>	<u>\$2,156</u>

The Superintendent at the Pierre Agency, which includes the Crow Creek and Lower Brule Reservations, estimated that the tribe earned \$10,000 from this land in fiscal 1955, or about \$9,300 more than the Bureau's fee of \$694. At the Turtle Mountain Consolidated Agency, the Superintendent estimated that the tribal income would be about \$1,000 from land rented from the Bureau at \$14 a year.

At the Crow Creek Reservation, 14,498 acres of the 20,474 acres of submarginal land rented to the tribe, or about 70 percent, are in turn permitted to non-Indians. At all other reservations of the Aberdeen Area, at least 30 percent of the submarginal land is permitted by the tribe to non-Indians. Most of these lands are used for grazing. Only 435 acres of submarginal lands were under cultivation in the Aberdeen Area during calendar year 1955. We have been informed by the Bureau that these submarginal lands do not consist of a solid unit but are comprised of separate tracts scattered throughout the reservation and, in general, can be used only by the operator of the contiguous land.

The permit for the Rosebud Tribe, renewed by the Bureau for the period April 1, 1954, to October 31, 1957, considerably increased the income to the Government. Under the terms of the renewed permit, the tribe is required to pay a rental fee based on a per pound beef price determined by averaging the market value of beef during the period of January 16 to April 15 of each year. Bureau employees informed us that this formula is similar to the one used by the Bureau of Land Management to determine grazing land rentals. The Bureau's annual rental income under this permit

is estimated at \$4,464 compared with the annual rental income of \$358 provided under the terms of the permit in effect from April 1944 to April 1954.

Much land, however, continues to be rented by the Bureau at nominal rates under revocable permits having several years to run.

#### Disposition of revenues from submarginal land

Our audit of the Aberdeen Area Office for fiscal year 1955 disclosed that revenues accruing to the Government from rental of submarginal lands to Indian tribes continued to be held by the Bureau in deposit accounts of the Indian Service Special Disbursing Agents. At June 30, 1955, these deposits totaled \$75,348 for the Aberdeen Area.

During the audit of the Aberdeen Area Office for fiscal year 1954, we questioned the Bureau's disposition of these revenues. Title to these lands has remained in the Government since their acquisition and, in our opinion, the rentals derived therefrom should have been deposited into the Treasury as miscellaneous receipts.

By letter dated November 1, 1954, the Area Director informed us that the Washington Office had been asked for advice as to the disposition of this revenue and that on October 26, 1954, he was instructed to continue to credit this revenue to special deposits pending legislation to place title to the land in the tribes.

By memorandum dated November 23, 1955, however, the Assistant Commissioner (Administration) instructed all Area Directors and accounting offices to deposit in the Treasury as miscellaneous

receipts all rentals previously received and hereafter collected from submarginal lands.

Bureau records show that at January 31, 1956, the revenues from submarginal lands totaled \$208,290 and was earned at agencies under the jurisdiction of the following area offices:

<u>Area Office</u>	<u>Amount of revenue</u>
Aberdeen, South Dakota	\$ 79,115
Billings, Montana	87,113
Minneapolis, Minnesota	31,327
Muskogee, Oklahoma	5,305
Portland, Oregon	5,430
Total	<u>\$208,290</u>

At January 31, 1956, the Bureau reported that \$131,127 had been deposited into the Treasury as miscellaneous receipts and that the balance of \$77,163 was still on deposit with the Bureau.

Recommendation

To provide a fair return to the Government on submarginal lands rented by the Bureau, we recommend that the Commissioner take further action to increase the rental rates.<sup>1</sup>

Proposed transfer of submarginal lands to Indian tribes

Proposed legislation has been introduced in the Congress on several occasions providing for the transfer of submarginal lands

<sup>1</sup>Since the preparation of this report the Department has advised us that the tribal delegations of those tribes whose permits are to be renewed in the near future have been advised that their permits will not be renewed at the previous rates.

to specific Indian tribes. For example, the following bills were introduced in the Eighty-fourth Congress.

<u>Bill number</u>	<u>Reservations involved</u>
S. 622	Blackfeet
H.R. 3917	"
H.R. 506	Standing Rock
S. 2122	White Earth
H.R. 9451	Seminole

These bills provide that the lands be conveyed to the United States in trust for tribes on the reservations listed above. None of these bills have been enacted into law except for H.R. 9451 which was enacted into Public Law 736 (70 Stat. 581) on July 20, 1956.

Bureau officials have informed us that the present Department policy is to report unfavorably on any such proposed legislation until the tribe concerned presents a proposed land-use plan satisfactory to the Department. Such land-use plans include information as to how and by whom the land is to be used. In favorably reporting on H.R. 9451, the Department pointed out that transfer of these lands to the Indians will assure them of a permanent base for the continued operation and improvement of their livestock enterprise and that the Indians have made effective use of the lands.

Because the conveyance of the submarginal lands into trust status for the tribes does not eliminate the Bureau's responsibilities in supervising the use of the lands but does eliminate the income to the Government from the lands, we believe that submarginal lands generally should not be transferred to tribes unless the tribe concerned submits a satisfactory land-use plan and unless such transfers lead to accomplishing the ultimate objective of termination of Federal supervision of Indians.

#### FEES FOR SERVICES RENDERED BY THE BUREAU

The Secretary of the Interior is authorized by law (25 U.S.C. 413), in his discretion, and under such rules and regulations as he may prescribe, to collect reasonable fees to cover the cost of any and all work performed for Indian tribes or for individual Indians, to be paid by vendees, lessees, or assignees, or deducted from the proceeds of sale, leases, or other sources of revenue. Under rules and regulations prescribed by the Secretary of the Interior, however, the fees charged for services rendered by the Bureau in connection with the management of Indian trust property are usually relatively low and, for some of the services performed for Indians by the Bureau's Branch of Realty, fees are not prescribed.

The Secretary of the Interior Survey Team in referring to the activities of the Bureau's Branch of Realty in a report on the Bureau of Indian Affairs, dated January 6, 1954, stated in part as follows:

"The Survey Team noted that either nominal fees or no fees are charged for services performed by the Branch. \*\*\* The Survey Team believes that this type of activity should be largely self-supporting. The fees now collected do not nearly cover the costs of this activity."

On April 12, 1954, in reply to the Survey Team report, the Commissioner of Indian Affairs stated in part as follows:

"The present fees collected for various land transactions will be carefully studied to determine what revisions are necessary. Consideration also will be given to the establishment of fees for such land transactions as exchanges, gifts, rights-of-way, and partitions, which heretofore have not had fees. \*\*\* The present schedule of fees for probate services is being studied with a view toward its revision."

At March 31, 1956, however, the fee structure on the management of Indian trust property had not been revised and fees schedules had not been established for land transactions for which fees are not charged.

#### Recommendation

To reduce the cost to the Government of administering land transactions, we recommend that the Commissioner take the necessary action to establish, as soon as possible, a fee structure based upon the objective of covering the cost of furnishing these services. We recognize that those services which the Government renders without charge to all citizens such as soil conservation assistance should not be considered in arriving at the cost of services rendered.

#### Need for revision of probate fees

One of the fee schedules in need of revision requires congressional action. It involves the fees assessed by the Bureau for probating estates containing individual Indian land interests. During our audit of administration of Indian lands we reviewed the probate fees charged in the Bureau's Anadarko, Oklahoma, Area and the related costs. The audit disclosed that the costs of probate services rendered by the Government are not recovered and that the larger estates do not bear a proper share of the costs of probating and administering Indian estates. Moreover, the fees charged by the Bureau for probating and administering the estates do not compare favorably with fees charged for similar services under Oklahoma statutes.

The Code of Federal Regulations (25 C.F.R. 81.22) provides for the assessment of fees for probating trust or restricted estates in accordance with law (25 U.S.C. 377), as follows:

<u>Estate valuation</u>	<u>Fee assessed</u>
\$ 000 to \$249	\$ -
over 250 and not exceeding \$1,000	20 <sup>a</sup>
over 1,000 and less than \$2,000	25
over 2,000 and not exceeding \$3,000	30
over 3,000 and not exceeding \$5,000	50
over 5,000 and not exceeding \$7,500	65
over 7,500	75

<sup>a</sup>It is noted that the \$20 fee is 2 percent of the valuation at the top of the bracket. An estate of \$250, however, is charged 8 percent.

During the 1955 fiscal year 221 probate cases, involving estates totaling about \$1,550,000, were concluded by the Office of the Examiner at the Shawnee Subagency in Oklahoma. The examiner probated cases for the Southern Plains Agency and Pottawatomie Area field offices of the Anadarko Area, Quapaw Subagency of the Muskogee Area, Winnebago Indian Agency of Minneapolis Area, and Shawnee Civil War Claims. Of the 221 cases, 68, or 30 percent, were valued in excess of \$7,500 each. Fifty-four of these estates, or over 24 percent, were valued in excess of \$10,000 each. The Bureau assesses a flat fee of \$75 for probating and administering all estates in excess of \$7,500.

Although the various state statutes are not uniform in stating fees for the probating and administering of estates, the State of Oklahoma provides a comparison with the provisions of 25 C.F.R. 81.22.

The Oklahoma Statutes, 1951, vol. II, title 58, sec. 527,

provide:

"In fees and commissions.--When no compensation is provided by the will, or the executor renounces all claim thereto, he must be allowed commissions upon the amount of the whole estate accounted for by him, \*\*\*, as follows: For the first thousand dollars, at the rate of five percent; for all above that sum, and not exceeding five thousand dollars, at the rate of four percent; for all above that sum, at the rate of two and one-half percent; and the same commission must be allowed administrators. \*\*\*."

Examination of the estate of an Indian in the Anadarko, Oklahoma, Area disclosed that the deceased possessed an estate of \$172,255 under control of the Bureau and an estate of \$112,572 subject to probate and administration under the laws of the State of Oklahoma, or a total estate of \$284,827.

On an estate of \$172,255 the laws of the State of Oklahoma provide for a fee of \$4,391 in executor's commissions. An Indian holding restricted lands and individual Indian moneys in the same amount receives comparable services from the Government at a cost of \$75.

A further consideration is that the Government is not recovering the costs of probating and administering Indian estates under the jurisdiction of the Bureau of Indian Affairs. During fiscal year 1955 the Office of the Examiner at Shawnee, Oklahoma, expended \$12,747 while fees assessed under the provisions of 25 C.F.R. 81.22 amounted to \$9,815.

Additional costs are incurred in the probating and administering of Indian estates by the Bureau. Bureau employees periodically report estates to be probated to the Examiner and do the preliminary work of heirship determination. They receive moneys for the

estate and hold such moneys in trust. After probate, the results are processed through the various land and individual Indian moneys records; postings, often complex, are made to heirship index cards, land allotment records, tract books, the individual Indian money accounts; and creditors of the estate are paid.

The cost of these services, excluding the cost of the time allocable to the handling of individual Indian moneys and the Osage Agency which finances its own functions, approximates \$7,000. This amount is based upon the 1955 fiscal year cost of land management expenses allocated in accordance with information received from area officials.

We were informed by area officials that 10 percent of the employees' time in the handling of individual Indian money accounts is applicable to probate cases. Accordingly, the estimated cost of general trustee services for fiscal year 1955 applicable to probate work amounts to \$6,470. The total cost for probate work performed in connection with the cases handled by the examiner at Shawnee Subagency is estimated at \$26,217. This estimated cost is conservative because it does not include similar Bureau costs of the Quapaw Subagency and Winnebago Indian Agency, under the jurisdiction of other Bureau area offices but included in the workload handled by the Examiner of Inheritance at the Shawnee Subagency.

#### Recommendation

To reduce the cost to the Government of probating and administering Indian estates, we recommend that the Congress consider legislation designed to increase the income from probate fees to provide in the aggregate for the recovery of costs to the Government of processing probate cases.

#### BACKLOG ON LAND TRANSACTIONS

One of the factors contributing to the delay of withdrawal of Bureau supervision over Indian Affairs is the backlog on land transactions. The Bureau reported at June 30, 1955, a backlog of 13,095 land transactions of all types compared with 13,280 cases at July 1, 1954. During the 1955 fiscal year, 23,875 new cases were received and 24,060 cases were closed. These statistics do not agree, however, with the total cases reported by the Bureau field offices. The field reports show an aggregate backlog of 13,132 cases at June 30, 1955, compared with 9,678 cases at July 1, 1954. (See appendix C.) Accordingly, the aggregate of the sums in field reports show a backlog increase in fiscal year 1955 of 3,454 cases compared with a decrease in backlog of 185 cases reported by the Central Office. Bureau officials could not furnish documentation supporting the differences between the statistics reported by the field and those reported by the Central Office to the Congress.

Our review of the Bureau's reports on land transactions disclosed that a considerable percentage of the backlog consists of cases relating to the sale of land. Following is a summary of the number of cases closed during fiscal year 1955 compared with the backlog at June 30, 1955, as reported by the Bureau.

	Cases closed during fiscal year 1955	Backlog of cases at June 30, 1955
Fee patents	781	910
Sales	2,803	5,668
Leases and permits	<u>14,933</u>	<u>2,180</u>
	18,517	8,758
Other land cases	<u>5,543</u>	<u>4,374</u>
Total	<u>24,060</u>	<u>13,132</u>

In the Aberdeen and Minneapolis Areas, the backlog of pending land sales increased during fiscal year 1955, as follows:

Area	Number of pending land sales at		Increase	Bureau estimate of man-years to complete
	June 30, 1955	June 30, 1954		
Aberdeen	1,388	243	1,145	10
Minneapolis	867	808	59	9

These statistics include land sales where processing was started after an application to sell was submitted by the Indian.

As of June 30, 1955, the Billings Area had a backlog of 2,694 land transactions of various types. The backlog, which increased by 821 transactions during the fiscal year, consisted primarily of applications for sale, patents-in-fee, leases and permits, and probate inventories.

The Phoenix Area reported a backlog of 221 land transactions at June 30, 1955, including 126 probate transactions. Although, according to Washington records, no backlog was reported by Papago Agency, agency officials informed us that there is a backlog of about 500 probate cases. Since 1950 the Examiner of Inheritance had not determined the heirs of Indians under the jurisdiction of the Papago Agency who have died intestate possessed of trust or restricted property. Bureau officials stated that the reason for

this delay is the reluctance of the Indians to furnish Examiners with information on deaths and probable heirs.

Bureau officials informed us that the basic reason for the excessive backlog of land transactions is the lack of qualified personnel. Since the close of fiscal year 1955 additional funds have been made available for Branch of Realty activities, as follows:

Location	Fiscal year 1955		Fiscal year 1956	
	Positions	Funds	Positions	Funds
Area:				
Aberdeen	18	\$107,873	40	\$ 225,744
Anadarko	15	68,854	20	97,233
Billings	8	38,869	27	134,887
Gallup	9	36,504	13	60,368
Juneau	2	16,130	2	16,130
Minneapolis	14	61,344	16	73,473
Muskogee	14	60,938	14	60,938
Phoenix	5	32,731	14	72,900
Portland	15	95,268	35	184,514
Sacramento	17	118,647	17	132,216
Washington Office	<u>34</u>	<u>155,070</u>	<u>45</u>	<u>256,421</u>
Total	<u>151</u>	<u>\$792,228</u>	<u>243</u>	<u>\$1,314,824</u>

During fiscal year 1956 considerable progress has been made by the Bureau in reducing the land backlog.

Our review of land transactions procedures disclosed, however, certain deficiencies which contribute to the backlog. These deficiencies include the maintenance of duplicate land records, the failure to prescribe procedures for maintenance of land records at agency offices, and the unnecessary processing of patent-in-fee cases.

#### Maintenance of duplicate land records

Records on Indian lands are maintained by the Bureau of Indian Affairs at various area and agency offices and the Branch of Realty in Washington, D.C.

The principal records maintained by the Branch of Realty in Washington are as follows:

1. Schedules of allotments to individual Indians on all reservations where allotments have been made, except the Five Civilized Tribes.
2. Tract books.
3. Plats of certain allotments.
4. Indexes to allottees for each reservation.
5. File of copies of deeds.
6. File of requests for patents-in-fee.

Records maintained by the Bureau of Indian Affairs at the agency level include files of deeds, requests for patents-in-fee, and trust patents.<sup>1</sup> Many agency offices have tract books but these are not used extensively because, in many cases, they have not been kept up to date. Moreover, deed files and tract books are maintained at certain area offices. All area offices keep files of requests for patents-in-fee. All records on lands of the Five Civilized Tribes of Oklahoma are in the field except for some deeds.

The Washington Office of the Bureau of Land Management, Department of the Interior, also maintains records for the processing and issuance of patents-in-fee, principally as follows:

1. Tract books
2. File of trust patents
3. File of requests for patents-in-fee
4. File of patents-in-fee

---

<sup>1</sup>If the Indian requests the trust patent, a receipt for this document is kept in this file.

After the lands become Indian lands and are turned over to the Bureau of Indian Affairs for administration, the Bureau of Land Management no longer keeps a record except for patents that it issued.

Bureau of Indian Affairs officials stated that, because of the inaccuracy of the land records apparent from the dissimilar entries for the same transaction in Washington and field records, the records cannot be decentralized until Central Office and field records are reconciled and properly adjusted.<sup>1</sup>

#### Failure to prescribe land record procedures

There are no written procedures or regulations in the Indian Affairs Manual, and Bureau officials informed us that there are no other prescribed written procedures, on the land records to be maintained at the agency offices. Consequently, land records at agencies are not always maintained in a manner to provide readily complete and consistent information necessary to process land transactions. Moreover, requests for information by agencies to the Central Office and considerable research at agencies may be necessary to process land transactions, thereby delaying the processing and contributing to the backlog.

According to Bureau officials, the records to be maintained at the agencies are as follows:

Allotment and Estate Record Cards  
Index and Heirship Cards  
Cross Reference Index to Index and Heirship Cards

---

<sup>1</sup>Since the preparation of this report the Department has informed us that this matter is being studied.

Our field audit disclosed, however, that, at the Turtle Mountain Consolidated and Winnebago Agencies of the Aberdeen Area, land records other than the ones listed above were in use. The records used did not contain the information needed to facilitate probate work and processing of land transactions.

#### Processing of patent-in-fee applications

The many reviews of applications for patents-in-fee and the issuance of patents-in-fee in Washington delay and unnecessarily increase the cost of processing the applications. Patent-in-fee applications are made by Indians desiring to remove their land from Bureau supervision.

The procedures followed in issuing patents-in-fee are:

1. Application received, documented from available land records, and approved by Agency Superintendent. Forwarded to Area Director.
2. Reviewed and checked against available area office land records. Application approved by Area Director and forwarded to Branch of Realty, Central Office.
3. Reviewed and checked against Central Office records on a spot-check basis. Approval of all applications recorded in tract books. Forwarded to Bureau of Land Management.
4. Approved application passes through Adjudication Section, Patents Section, and Records Section of the Branch of Field Services of Bureau of Land Management. Patent issued and forwarded to Branch of Realty, BIA Central Office.
5. Issuance of the patent recorded in the tract books of the Branch of Realty. Patent transmitted to Indian agency.
6. Patent forwarded to patentee and recorded in agency land records.

It will be noted that a patent-in-fee case is processed by six different organizational entities within the Bureau of Indian Affairs and the Bureau of Land Management, resulting in unnecessary costs.

According to a Bureau study, in the central office of the Bureau of Indian Affairs alone, the handling of 781 cases during fiscal year 1955 required an estimated 25 man-weeks.

Besides additional costs, the present procedures also result in delaying the issuance of patents-in-fee. Moreover, letters of inquiry from the landowners, prospective land purchasers, and others on delays in issuing these patents also increase the workload. Branch of Realty officials stated that much of this correspondence would be eliminated if patents were issued in the field. Bureau officials of the Branch of Realty estimate that 90 percent of the patents could be issued on the basis of agency records without referral to Washington.

Allotted Indian land may be conveyed to a purchaser by a deed signed by the Indian owners or a patent-in-fee issued by the Bureau. Under current prescribed procedure (54 IAM 202.03L) the Area Director is authorized to approve the issuance of deeds without prior Washington approval. Requests for patents-in-fee, however, are required (54 IAM 201.03B) to be forwarded to Washington for processing and issuance of the patent.

#### Recommendation

To reduce the backlog of land transactions and to reduce the cost of and delay in processing land transactions, we recommend that:

1. The Commissioner take appropriate action to eliminate the duplicate land records maintained by the field and Washington and to have rules and regulations prescribed in the Indian Affairs Manual on the land records to be maintained at the field offices.

2. The Commissioner consider having regulations on the processing of patents-in-fee revised to permit Area Directors to issue such patents so that all patent-in-fee cases do not have to be processed in Washington.

APPENDIXES

APPENDIX A  
Page 1

MEMBERSHIP INTEREST IN THE FORT RAYBALL RESERVOIR TAKING AREA,  
CROW CREEK, S.D., MAY 1955 BY THE CORPS OF ENGINEERS

ALLOTMENT NO. 56  
S 1/4 of LOT 9, LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

ALLOTMENT NO.	NAME	NUMERICAL INTEREST	VALUE OF INTEREST
		NUMERATOR	DENOMINATOR
SR-1758	ITAVUIN	260,714,886,400	535.67
SR-1758	ARMED STUN HIM AS HE WALKS ON HOZE	"	535.67
SR-	LUCAS	"	247.23
SR-	Mrs. HOLY	"	94.22
CC-256	MEASURES LAND OR BEN OLDEST CHILD	"	29.76
YS-1234	TAKES POSITION OR BROWN CAME	"	29.76
YS-729	JOSEPH WISAPA	"	170.56
YS-1367	"	"	119.04
SR-	HUGH SWIFT BIRD	"	41.09
SR-	GEORGE OR JOHN SWIFT BIRD	"	7.95
SR-	JOHN SWIFT BIRD OR RED BEARD	"	7.95
CC-809	FACING THE WIND OR FLORENCE RUNNING	"	35.71
CC-1175	ANNIE RED BEARD	"	57.54
CCU-	JOSEPH RED BEARD	"	45.33
SI-	TAGANDUPA OR HER PIPE	"	20.22
SI-	ALEXIS OR ALEON WHITE	"	20.22
SR-	Mrs. RATTILING TAIL, EGYATE	"	20.22
SR-	BESSIE LITTLE CROW, EGYATE	"	20.22
SR-	NANCY THE SHIELD	"	20.22
CC-1006	JOSEPH COMES FLYING	"	20.22
CC-1007	HENRY COMES FLYING	"	20.22
YS-204	THOMAS GATES	"	1.84
SR-2177	Mrs. ROBERT GOODREAU	"	1.84
SR-3083	Mrs. CHARLES McLAUGHLIN	"	1.84
SR-2555	Mrs. JOHN MELVIN	"	7.62
SR-1784	EDWARD HERBERT OR CYRIL LOON	"	7.62
SR-4239	EDWARD J. LOON	"	1.27
SR-1023	DAVID CASKE OR RUNNING BEAR	"	1.27
SR-2575	JOSEPH CASKE OR RUNNING BEAR	"	1.27
SR-4125	JULIA TORCHA OR IRON BOND	"	1.27
SR-4476	JOAN TORCHA OR RAINBOW	"	1.27
SR-2223	FLORA TAKES THE SHIELD	"	1.27
SR-2377	JAMES WILDY	"	1.27
SR-1930	JOSEPH DWARF, SR.	"	1.27
SR-1931	HENRY DWARF, SR.	"	1.27
SR-4217	Mrs. THOMAS KIDDER	"	1.27
SR-2490	SAMUEL GOODIRON	"	1.27
SR-2489	CECELIA GOODIRON	"	1.27
SR-4272	ELIZABETH HARRY CHIN KECKE	"	1.27
SRU-6734	FRANCIS HARRY CHIN	"	1.27
SRU-6783	CATHERINE HARRY CHIN	"	1.27
SRU-2780	Mrs. LENA THOMPSON RATTILING TAIL	"	1.27
SRU-4376	MARY RATTILING TAIL CLOUD	"	1.27
SRU-7650	CATHERINE RATTILING TAIL	"	1.27
CCU-	MELBA ALONG THE BACK	"	1.27
CCU-	CAROLINE IRENE STERNARD	"	1.27
CCU-	ROONEY L. HEAD	"	1.27
YS-368	STANDING BEAR, LIZZIE OR MARY HAPANA WILLIAMS	"	1.27
YS-3157	DAVID STANDING BEAR	"	1.27
CR-32	AMOS HIGH EAGLE	"	1.27
CR-2208	ROSE OR ROSIE HIGH EAGLE	"	1.27
CCU-	NACHI VOICE	"	1.27
CC-393	SUGAR OR Mrs. PETER MOUNDED FACE	"	1.27
CC-392	EMMA OR Mrs. HARRY SLOW	"	1.27
CC-1211	PAUL TOUCHED	"	1.27
CC-1213	SOPHIE TOUCHED (Mrs. JOHN C. TOUCHED)	"	1.27

APPENDIX A  
Page 2

CC-1214	GEORGE TOUCHED	22,163,314,446	54,258,714,806,400	2.83
CC-1462	HEMINE TOUCHED (Mrs. Ed. COUNTELLOR)	22,163,314,446	"	2.83
CCU-	MATTHIAS TOUCHED	22,163,314,446	"	2.83
SR-619	LUKE CHASES ALONE	233,298,046,800	"	29.76
YSU-	CHRIS THUNDER HORSE	11,061,657,223	"	1.41
CCU-	CHARLES R. THUNDER HORSE	11,061,657,223	"	1.41
SV-	HARRIET (HARRAH) SHAKER HAYES	99,984,877,200	"	12.74
SV-	ABRAHAM SHAKER	99,984,877,200	"	12.74
SV-	JOSEPH GRAMAM	99,984,877,200	"	12.74
SV-	ALEXANDER SHAKER	99,984,877,200	"	12.74
SV-	PETER SHEPHERD	24,234,219,300	"	3.12
SV-	Mrs. JAMES OWEN, MRS. SHEPHERD	24,234,219,300	"	3.12
SV-	HENRIETTA DEER	24,234,219,300	"	3.12
SV-	EUNICE "KEEGLER"	24,234,219,300	"	3.12
SV-	WOODROW KEEGLE	33,328,292,400	"	4.24
SV-	MARION CAMPBELL IRON STAR	12,498,109,650	"	1.60
SV-	LUCINDA MAY IRON STAR	12,498,109,650	"	1.60
SR-643	JULIE WHITE BULL	116,649,023,400	"	14.88
SRU-5662	SUBAN YELLOW FAT	116,649,023,400	"	14.88
SV-330	CHARLES HAYES	33,328,292,400	"	4.24
SV-457	"	"	"	4.24
SV-1187	IRENE IDA KEEGLE	16,664,146,200	"	2.12
SV-1206	EVA HAYES KEEGLE	16,664,146,200	"	2.12
SVU-2243	LENA HAYES SHEPHERD	16,664,146,200	"	2.12
LB-499	PETER PRETTY SOUNDING FLUTE	1,000,976,201,600	"	12.19
CCU-	CLOTHILDE BIG EAGLE	669,984,134,400	"	85.47
CCU-	CECELIA MEDICINE CEDAR	669,984,134,400	"	85.47
CCU-	RALPH GREEN	669,984,134,400	"	85.47
SR-8794	LOUISE V. MEANS, MRS. AGARD	349,947,070,200	"	44.64
RS-5414	JOHNSON RED LEAF	9,044,923,604,800	"	1,153.75
LB-163	FLORENCE EAGLE THUNDER	9,044,923,604,800	"	834.59
SV-	GENEVIEVE E. WILLIAMS	8,382,073,100	"	1.06
SV-	GERALD WILLIAMS	8,382,073,100	"	1.07
FP-108	FANNIE BROWNING MENZ	311,064,062,400	"	39.62
SRU-6968	HEMINE M. BROWN	103,688,020,800	"	13.22
SRU-6969	MELBA MENZ	103,688,020,800	"	13.22
SRU-6970	BASIL MENZ	103,688,020,800	"	13.22
FPU-	FLORENCE MELVIN	103,688,020,800	"	13.22
SRU-6768	EVERETT W. BROWNING	17,281,336,800	"	2.22
SRU-6769	AURELIA H. WHITECLOUD	17,281,336,800	"	2.22
SRU-6767	HILDEGARD M. FALLIS	17,281,336,800	"	2.22
SRU-6770	LORRAINE C. DANIELSON	17,281,336,800	"	2.22
SRU-6771	LESLIE YOUNGBEAR	17,281,336,800	"	2.22
SV-	LARRY YOUNGBEAR	17,281,336,800	"	2.22
SV-	FERN C. YOUNGBEAR	17,281,336,800	"	2.22
SV-	JAMES W. KEEGLE	33,328,292,400	"	4.25

IDENTIFICATION SHOWN IN PARENTS. LETTERS DESIGNATE THE RESERVATION TO WHICH THE PERSON OWNING THE MEMBERSHIP INTEREST BELONGS. ABBREVIATIONS ARE AS FOLLOWS: SR - STANDING ROCK; CC - CROW CREEK; YS - YANKTON STONE; SV - SIOUX FALLS; FP - FORT PIERCE; LB - LOWER BRULE; RS - ROOSEVELT. WITH FOLLOWING THE TWO LETTERS INDICATES THAT THE INDIVIDUAL HAS NOT RECEIVED AN ALLOTMENT. THE NUMERAL INDICATES THE ALLOTMENT NUMBER. 00 IN THE CASE AN ALLOTMENT HAD NOT BEEN MADE TO THE INDIVIDUAL, THE IDENTIFICATION NUMBER OF THE INDIVIDUAL.

Winnebago Agency  
Winnebago, Nebraska  
March 8, 1954

## Memorandum

To: Aberdeen Area Director  
Attention: Mr. Rex Barnes

From: V. E. Godfrey, Superintendent

Subject: Proposed sale of the allotment of Frank Whirlingthunder, Winnebago allottee L-354, comprising land described as the NW/4 SW/4, Sec. 1, T. 25 N., R. 7 E.

This case is sent to you because it is typical of a number of cases with a multiplicity of heirs. The difficulties in complying with the present regulations as to sale of the land are also typical. It is this type of case where sale is most justified. The land is outside an Indian-use area; there are no Indians that we know who could either rent or buy the land; and the great number of heirs require much clerical work in dividing the income.

There are enclosed petition for sale, supported by as many signatures as we could get, and a certificate of appraisement. The certificate is nearly three years old and, of course, is no longer valid. However, if the land can be offered for sale a new appraisement will be made.

For your easier checking a dot has been placed before the names of those who have signed. Those to whom petitions were sent and returned unclaimed by the post office department are designated by a circle. Those who are deceased and the heirs as yet undermined are designated by a cross. Where there is no marking, either we do not have current addresses or the heirs have not returned the petitions sent to them. The summarization shows the following.

Signed	78.10%
Mail returned unclaimed	2.20%
Unprobated estates	12.90%
Addresses unknown or failed to return petitions	6.80%

The unprobated estates are six in number. Hearings have been held on three of these but the findings are not yet available. Two have died since the last time the Examiner of Inheritance was here. The estate of Thomas Boucher, a white man, probably will never be probated. He left no children. His nearest relatives live in New England and seem not to be interested, probably because his several small undivided interests in Winnebago land would not equal the cost of probate. A local attorney has been trying to start

probate proceedings but with no success to date because of the non-interest of his family.

At least another year must elapse before the remainder of the estates can be probated. Many of the heirs are old and the odds are that some of them will die in the interim. It is unlikely that there will ever be a time but that there will be probate hearings pending. The estate will continue to grow in complexity.

You will note that in the estates listed under decedents Nos. 25, 27, 28, 29, 30, 31, 37, and 38 the Frank Whirlingthunder allotment was not shown in the property inventory. It is assumed that the Examiner of Inheritance will have to modify his findings accordingly.

If an exception to the regulations can be made in this case and similar cases it will enable this office to dispose of some lands which do nobody much good and which cause a substantial share of our clerical work in the IIA and Land Departments and will allow the employees to spend their time on more constructive work such as bringing the probate records up to date.

It required not less than 48 man-hours of work to process the papers enclosed.

V. E. Godfrey  
Superintendent

Enclosure

VEGodfrey:rs

BACKLOG OF LAND TRANSACTIONS REPORTED BY BUREAU FIELD LOCATIONS

AS OF JUNE 30, 1954 AND 1955

Type of transaction	Locations and fiscal years																		Cumulative totals					
	Aberdeen		Anadarko		Billings		Gallup		Minneapolis		Muskogee		Phoenix		Portland		Sacramento		Washington (Cherokee, N.C.)	Juneau	1954	1955		
	1954	1955	1954	1955	1954	1955	1954	1955	1954	1955	1954	1955	1954	1955	1954	1955	1954	1955	1954	1955	1954	1955		
Patents-in-fee	34	259	13	29	218	281		3		1	1	1	10		225	300	27	36					528	910
Sales	243	1,388	421	438	730	1,094	7	2	808	867	461	401	2	7	1,007	1,442	48	27			2	3,727	5,668	
Exchanges	90	245	15	19	80	67	1	6						11	9	131	201	2	16				330	563
Partitions	2	38	20	43	35	43		2						3	2	15	26	1	1				76	155
Removal of restrictions	2	3	5	16				1			441	364			11	12	6	1					465	397
Certificates of competency			1	4	16	81		2							31	40							48	127
Purchases	2	15	4	5	4	10	4	5				4	5	23	11	69							30	131
Leases and permits	36	703	210	129	581	836	151	68	1	2	70	57	45	25	851	265	30	93		2			1,975	2,180
Rights-of-way	4	30	81	56	96	22	14	17	5	8	91	116	5	7	112	114	15	20	1				424	390
Probate inventories		248	64	34	75	193	28	102	354	343			87	117	238	154	75	125					921	1,316
Probate postings		558	223	176	33	35	69	69	522	183			16	9	192	119	47	2					1,102	1,151
Other		50			5	32			1					22	42	32	4	8					52	144
	<u>413</u>	<u>3,537</u>	<u>1,057</u>	<u>949</u>	<u>1,873</u>	<u>2,694</u>	<u>274</u>	<u>277</u>	<u>1,691</u>	<u>1,404</u>	<u>1,064</u>	<u>943</u>	<u>184</u>	<u>221</u>	<u>2,866</u>	<u>2,774</u>	<u>255</u>	<u>323</u>	<u>1</u>	<u>2</u>	<u>2</u>	<u>2</u>	<u>9,678</u>	<u>13,132</u>